
Federalism: A Local Government Advisory Committee Report

Introduction

In its capacity as an advisory committee to the Environmental Protection Agency (EPA), the Local Government Advisory Committee (LGAC) periodically makes recommendations and comments to the Agency on issues impacting local governments. Over the past three months the Committee has reviewed proposed EPA actions for implementation of Presidential Executive Order 13132: Federalism. The extraordinary interest of LGAC members in participating in this review is a clear indication of the desire to improve the effectiveness and cooperative spirit between Federal and local agencies. This report summarizes the LGAC's comments on Agency implementation proposals that were conveyed in two draft guidance documents: ***Interim Guidance on Executive Order 13132: Federalism*** and ***Planning For Intergovernmental Outreach and Consultation***.

General Summary

The LGAC generally supports the overarching principles of Federalism Executive Order (EO 13132), and recognizes its potential significance in promoting successful interaction between local governments and Federal agencies. The Agency is genuinely applauded for its aggressive actions toward implementation, and its willingness to develop its implementation responses in an open and collaborative manner.

The following recommendations are comments directed specifically to the draft EPA materials, and just as importantly, they also reflect the years of local government experience represented by the LGAC's membership. This reflection highlights the benefit of the LGAC as a channel for communication between local governments and EPA.

A. Key Priority Comments

- The LGAC wishes to underline the Order's central premise, which holds that issues that *are not* national in scope or significance are most appropriately addressed by the level of government closest to the people.
- The LGAC approaches this proposed implementation process in terms of how the Executive Order's implementation builds upon already existing communication links between EPA, local agencies and community organizations. The purpose is NOT to reinvent the wheel, but to augment and support that Federal-community relationship.
- The LGAC believes that EO 13132, if diligently applied, could effectively augment EPA's efforts to strengthen its partnership with States and local governments.

- The LGAC believes that the *Fundamental Federalism Principles* cited in the Executive Order provides a solid foundation for meaningful cooperation between levels of government when there is development of policies or regulations that are of national scope or significance.
- The LGAC believes that guidance documents are only as good as their implementation. Without accountability and consistency these important objectives will not succeed. Therefore, EO 13132 cannot be successfully implemented within the Agency until there is direction to all staff that it is a priority. Therefore, an internal training component that holds the Agency and Office Directors accountable (via performance measurements or other administrative drivers) should be included.
- The LGAC believes that in addition to the Executive Order's implementation, Congressional mandates and deadlines for program development that do not allow ample time to meet with constituents (audience/customer) also need to be addressed realistically.
- The Committee cautiously advises that the New Federalism will be consistently applied in EPA's ten Regional Offices only if clear direction and accountability measures from Headquarters are in place. The LGAC believes that it is at the Regional level that local governments interact with the Agency on most issues, most often. And, it is the Regions that are most open to partnering with local governments in new and innovative ways.
- The Committee encourages EPA to give tangible assistance to reaching the goals of the EO 13132 by enhancing communication with Regional Offices, broadening definitions on consultations specifically in working with local offices and working to coordinate a more consistent level of communication between Regional Offices, local governments and associations.

B. EPA Requested Information

The following questions (**highlighted in bold**) were posed to the Committee by EPA staff. *LGAC member responses submitted are shown in italics.*

(1) What would constitute good consultation and what would be most beneficial for rule makers [EPA] to hear?

EO 13132 cannot be successfully implemented within EPA until there is direction to all staff that it is a priority.

The documents should emphasis that consultation outreach requests should be explained in layman's language.

(2) What is the proper mix of officials, and who should be contacted on individual consultation requests?

Individual local governments must have assurance that they are included as a contact group. It is felt that the Big Seven National Associations are a good starting point, but there is a concern that an “inside the beltway” mind-set does not adequately reflect those views of many local governments.

a) How to build and keep a current list of elected officials, etc.?

The LGAC can provide a list of members and the expertise of each to be a resource for the EPA.

There are a number of meetings with national associations coming up very soon that could be a good forum for communication.

b) Is it true that bigger cities have more expertise and should be automatically contacted?

Bigger cities have more expertise in certain topic areas, and each city may have more expertise in a particular issue based on their environmental challenges. The cookie-cutter approach does not work.

c) Is a good mix of sizes of cities and counties imperative?

A good mix of sizes of cities and counties is imperative.

C. General Comments

Below are listed specific comments from members of the LGAC concerning the review of the EPA guidance documents for EO 13132:

- The documents do not appear to have adequate accountability elements. Additional language needs to be included in these documents to SUPPORT utilization, DEFINE accountability, and CLARIFY consistency with implementing the Executive Order throughout the Agency.
- In the consultation planning guidance document there should be a flowchart similar to the one in the interim regulation/rules guidance document showing the consultation planning process.

- There is a need for non-technical language. The documents should emphasize that consultation outreach requests should be explained in layman's language. Concerns were voiced that often EPA documents, etc. are too technical. In communications, the audience must be kept in mind. In particular, communications with elected officials need to be in non-technical language.